

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

RECEIVED
REGIONAL HEARING

BEFORE THE ADMINISTRATOR

99 MAR -2 11:48

IN THE MATTER OF

FORD MOTOR COMPANY,

RESPONDENT.

)
)
)
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)

DOCKET NO. 5-CAA-98-036

MOTION TO WITHDRAW CACO AND REFILE

1. On February 26, 1999, A Consent Agreement and Consent Order (CACO) was filed in this matter. Due to administrative error, the CACO was not fully executed by U.S. EPA. While the Regional Administrator signed the CACO, the Acting Air and Radiation Division Director inadvertently failed to do so.
2. U.S. EPA respectfully requests leave to withdraw the improperly executed CACO filed on February 26, 1999 and to refile a properly executed yet otherwise identical CACO.
3. Opposing counsel has no objection to this motion. The Presiding Officer's clerk was notified today by telephone of the error and U.S. EPA's intention to refile.

Respectfully submitted,

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY

Dated: March 1, 1999

By:

Ignacio L. Arrázola
Associate Regional Counsel
U.S. EPA, Region 5 (C-14J)
77 West Jackson Blvd.
Chicago, IL 60604
(312) 886-7152

I hereby certify that the Motion to Withdraw CACO and Refile,
filed on 3/2/99, was sent this day in the following
manner to the addresses listed below:

Original Hand Delivered to:

Sonja Brooks
Regional Hearing Clerk
U.S. EPA, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

Copy by Pouch Mail to:

Hon. Barbara A. Gunning
Administrative Law Judge
Mail Code 1900 L
401 M. Street, S.W.
Washington, D.C. 20460

Copy by Certified Mail to:
Attorneys for the Respondent:

Michael L. Laber, Esq.
Office of the General Counsel
Parklane Towers East
Suite 728
One Parklane Boulevard
Dearborn, MI 48126-2493

Dated: _____

3/2/99

Shwanda Mayo
Shwanda Mayo, Secretary
ARD/AECAB/AECAS (MN-OH)

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5 '99 MAR -2 A11:51

IN THE MATTER OF:

Ford Motor Company
Cleveland Casting Plant
Brook Park, Ohio

Respondent.

)
) Docket No. 5-CAA-98-036
)
) Proceeding to Assess
) Administrative Penalties
) under Section 113(d) of the
) Clean Air Act,
) 42 U.S.C. § 7413(d)

CONSENT AGREEMENT AND CONSENT ORDER

Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 ("U.S. EPA"), initiated this civil administrative proceeding for the assessment of a civil penalty pursuant to Section 113(d) of the Clean Air Act ("CAA" or "the Act"), 42 U.S.C. § 7413(d), and Sections 22.01(a)(2) and 22.13 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and Revocation or Suspension of Permits ("Consolidated Rules"), 40 C.F.R. Part 22, by issuing and filing an Administrative Complaint ("Complaint") against Respondent Ford Motor Company ("Respondent" or "Ford").

I. PRELIMINARY STATEMENT

1. The Complaint, which is incorporated here by reference, alleges that Respondent violated the Ohio State Implementation Plan ("SIP") adopted pursuant to Section 110 of the Act, 42 U.S.C. § 7410. Specifically, the Complaint alleges that on November 13 and 14, 1997, Respondent Ford Motor Company violated the particulate emissions limitation of 26.8 pounds per hour, set

forth in Ohio SIP Rule 3745-17-12(I)(43)(a) of the Ohio Administrative Code ("OAC"), OAC § 3745-17-12(I)(43)(a), for cupola number 7 at the Ford Motor Company Cleveland Casting Plant.

2. The Ford Motor Company Cleveland Casting Plant is located at 5600 Henry Ford Boulevard, Brook Park, Ohio.
3. Respondent filed an Answer and requested a hearing pursuant to Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2), and Section 22.15 of the Consolidated Rules, 40 C.F.R. § 22.15.
4. Complainant and Respondent have determined that this matter should be settled without a hearing or further proceedings, upon the terms set forth in this Consent Agreement and Consent Order.
5. Respondent admits the jurisdictional allegations set forth in the Complaint.
6. Respondent neither admits nor denies the factual allegations set forth in the Complaint.
7. Respondent waives its right to a hearing on the allegations of the Complaint.
8. This Consent Agreement and Consent Order shall apply to and be binding upon Respondent, and Respondent's successors and assigns, including, but not limited to, subsequent purchasers.
9. Respondent certifies that it is in full compliance with Ohio SIP Rule 3745-17-12(I)(43)(a), OAC § 3745-12(I)(43)(a).
10. Respondent and Complainant consent to the terms of settlement forth below.

II. TERMS OF SETTLEMENT

11. Pursuant to Section 113(e) of the CAA, 42 U.S.C. § 7413(e), and based on the terms of this CACO, the nature of the violations alleged in the complaint, information exchanged by the parties, and other relevant factors, U.S. EPA has determined that forty-four thousand dollars (\$44,000) is an appropriate civil penalty to settle this action.
12. Complainant mitigates the civil penalty amount of fifty-five thousand dollars (\$55,000) proposed in the Complaint to forty-four thousand dollars (\$44,000).
13. Respondent consents to the assessment of a civil penalty in the amount of forty-four thousand dollars (\$44,000).
14. Respondent agrees to pay a civil penalty of forty-four thousand (\$44,000) in the manner described in paragraph 15, below, in full satisfaction of the violations alleged in the Complaint.
15. Within thirty (30) days of receiving a copy of this Consent Agreement and Consent Order signed by the U.S. EPA Regional Administrator, Region 5, Respondent shall submit a cashier's or certified check in the amount of FORTY-FOUR THOUSAND DOLLARS (\$44,000), payable to the "Treasurer, United States of America," to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673
16. A transmittal letter, indicating Respondent's name, complete address, the case docket number and the billing document number

must accompany the payment. The case docket number and the billing document number shall also be included on the face of the check. Respondent shall send copies of the check and transmittal letter to:

Regional Hearing Clerk, (R-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Julie Brandt, (AE-17J)
Air Enforcement and Compliance Assurance Section (MN-OH)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Ignacio L. Arrázola, (C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

17. The penalty specified in Paragraph 16, above, shall represent civil penalties assessed by U.S. EPA and shall not be deductible for purposes of Federal taxes.
18. Interest shall accrue on any amounts overdue under the terms of this Consent Agreement and Consent Order at the rate established by the Secretary of the Treasury, pursuant to 31 U.S.C. § 3717. In addition, a late payment handling charge of \$15.00 will be imposed if payment is not made within sixty (60) days after the Complainant files a fully executed copy of this Consent Agreement and Consent Order with the Regional Hearing Clerk, with an additional charge of \$15.00 for each subsequent 30-day period over which an unpaid balance remains.
19. This Consent Agreement and Consent Order constitutes a settlement

by U.S. EPA of all claims for civil penalties pursuant to Section 113(d) of the CAA, 42 U.S.C. § 7413(d), for the violations alleged in the Complaint. Nothing in this Consent Agreement and Consent Order is intended to nor shall be construed to operate in any way to resolve any criminal liability of the Respondent.

20. Respondent's failure to comply with any provision of this Consent Agreement and Consent Order may subject Respondent to a civil action pursuant to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5), to collect any unpaid portion of the civil penalty, together with interest, handling charges, and nonpayment penalties as set forth in Paragraph 18 above. In any such collection action, the validity, amount, and appropriateness of this Order or the penalty assessed are not subject to review.
21. Nothing in this agreement shall be construed as prohibiting, altering or in any way limiting the ability of U.S. EPA to seek any other remedies or sanctions available by virtue of Respondent's violation of this agreement or of the statutes and regulations upon which this agreement is based, or for Respondent's violation of any applicable provision of law.
22. Nothing in this Consent Agreement and Consent Order shall relieve Respondent of the duty to comply with all applicable provisions of the Clean Air Act and other Federal, State and local laws and statutes.
23. Each undersigned representative of each party to this Consent Agreement and Consent Order certifies that he or she is duly authorized by the party whom he or she represents to enter into

the terms of this Consent Agreement and Consent Order and to bind that party to such terms.

24. This Consent Agreement and Consent Order constitutes the entire agreement between Complainant and Respondent.
25. The parties to this agreement consent to the entry of this Consent Agreement and Consent Order without further notice.
26. Each party shall bear its own costs, fees and disbursements in this action.
27. This is a "final order" for purposes of the "enforcement response" policy set forth in U.S. EPA penalty policies.

In the Matter of: Ford Motor Company, Cleveland Casting Plant
Docket No. 5-CAA-98-036

The foregoing Consent Agreement is Hereby Stipulated, Agreed, and
Approved for Entry:

U.S. Environmental Protection
Agency, Complainant

Date: 3/1/99

By:  FOR

Richard C. Karl, Acting Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

Ford Motor Company, Respondent

Date: FEB 18 1999

By: 

Name and Title: **Thomas DeZure**
Ford Motor Company **Assistant Secretary**

In the Matter of: Ford Motor Company, Cleveland Casting Plant
Docket No. 5-CAA-98-036

III. CONSENT ORDER

The foregoing Consent Agreement is hereby approved and incorporated by reference into this Consent Order. The Respondent, Ford Motor Company, is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement, effective immediately upon filing of this Consent Agreement and Consent Order with the Regional Hearing Clerk.

Dated: March 1, 1999



David A. Ullrich
Acting Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

CERTIFICATE OF SERVICE

I certify that I filed the original of the foregoing Consent Agreement and Consent Order (CACO) Assessing Administrative Civil Penalties Against Ford Motor Company, Docket No. 5-CAA-98-036 with the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and have sent true and accurate copies of the CACO via certified mail, return receipt requested, to:

Michael L. Laber, Esq.
Office of General Counsel
Ford Motor Company
Parklane Towers East, Suite 728
One Parklane Boulevard
Dearborn, MI 48126-2493

I also certify that copies of the CACO were sent by first class mail to:

Robert Hodanbosi, Chief
Division of Air Pollution Control
Ohio Environmental Protection Agency
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049

Mark Vilem, Project Coordinator
Division of the Environment
Cleveland Department of Public Health
1925 Saint Claire
Cleveland, Ohio 44114

on the 2nd day of March, 1999.

Shwanda Mayo
Shwanda Mayo, Secretary
ARD/AECAB/AECAS (MN-OH)

P300 759 714
Certified Mail Article Number

US
ENVIRONMENTAL
PROTECTION AGENCY
REGION 5

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